

ASSIGNMENT

WHEREAS Phoenix Laser Systems, Inc., a Delaware corporation which has filed Chapter 7 bankruptcy, and for which Jeoffrey L. Burtch, 824 Market Street Mall, Suite 1000, Wilmington, Delaware 19899, has been duly appointed Chapter 7 panel trustee, is the owner of the following U.S. patents and patent applications:

<u>Patent Title</u>	<u>Patent No.</u>	<u>Issue Date</u>
Method of Establishing a Unique Machine Independent Reference Frame for the Eye	5,474,548	12/12/95
System for Scanning a Surgical Laser Beam	5,391,165	2/21/95
System for Detecting, Correcting and Measuring Depth Movement of a Target	5,286,964	2/15/94
Illumination of the Cornea for Profilometry	5,283,598	2/1/94
Apparatus and Method of Identifying Signals in Biological Tissues	5,170,193	12/8/92
System and Method for Detecting, Correcting and Measuring Depth Movement of Target Tissue in a Laser Surgical System	5,162,641	11/10/92
Spectral Division of Reflected Light in Complex Optical Diagnostic and Therapeutic Systems	5,157,428	10/20/92
Method and Apparatus for Precision Laser Surgery	5,098,426	3/24/92
Ophthalmic Diagnostic Apparatus and Method	5,054,907	10/8/91

EXHIBIT E

<u>Patent Title</u>	<u>Patent No.</u>	<u>Issue Date</u>
Spectral Division of Reflected Light in Complex Optical Diagnostic and Therapeutic Systems	5,048,946	9/17/91
Process and Apparatus for Ophthalmic Surgery	4,309,998	1/12/82

<u>Application Title</u>	<u>Ser. No.</u>	<u>Filing Date</u>	<u>File No.</u>
Automated Laser Workstation For High Precision Surgical And Industrial Interventions	523,738	9/5/95	279P
System For Detecting, Measuring And Compensating For Lateral Movements of a Target	515,152	8/15/95	302P

WHEREAS, VISX, Incorporated, a Delaware corporation, doing business at 3400 Central Expressway, Santa Clara, California 95051, is desirous of obtaining the entire right, title and interest in, to and under the said U.S. Patents and Patent Applications.

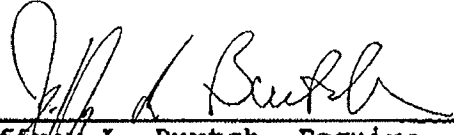
NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, I, Jeoffrey Burtch, have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over unto the said VISX, Incorporated, its successors, legal representatives and assigns the entire right, title and interest in, to and under the U.S. Patents and Patent Applications, and all divisions, continuations and continuations-in-part thereof, and all Letters Patent of the United States which may be granted thereon and all applications for patent or patents which have been or may be filed or granted for said improvements in any country or countries foreign to the United States, and to all extensions, renewals, and reissues thereof; and I hereby

EXHIBIT E

authorize and request the Commissioner of Patents of the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said applications to the said VISX, Incorporated, its successors, legal representatives and assigns, in accordance with this instrument.

IN WITNESS WHEREOF, I have executed and delivered this assignment on the date set forth below.

Date:

2/7/97

Jeffrey L. Burtch, Esquire
Trustee in Bankruptcy for
Phoenix Laser Systems, Inc.

AGREEMENT OF SALE

This agreement is made this 17th day of August, 1994, in Fremont, California, by and between **PHOENIX LASER SYSTEMS, INC., (PLS)** and **OCULAR DIAGNOSTICS CORPORATION (ODC)**.

Recitals

PLS is the owner of certain equipment, materials, and intellectual property related to corneal diagnostic (tomograph measuring) devices. ODC desires to purchase from PLS and PLS desires to sell to ODC the equipment, materials, and intellectual property which are associated solely with the tomography project. In consideration of the acts and promises herein contained, it is mutually agreed as follows:

A. Purchase and Sale. Subject to the terms and conditions set forth in this agreement, ODC shall purchase from PLS and PLS shall sell and assign to ODC that certain property, described in (1) and (2) below as follows:

(1) The equipment and materials listed in Exhibit "A" attached.

(2) The intellectual property, information, and knowledge acquired by Fritz Knopp and Jerzy Orkiszewski in working on the tomography project for PLS.

(3) PLS will also as a part of this agreement allow ODC to use the two-point patient fixation information (hereafter "two-

point") and device owned by PLS as follows:

ODC's use of the information and device will be limited to the anterior portion of the eye for measurement of the cornea and lens and for no other use. ODC will have exclusive use of the "two-point" for that limited purpose except for PLS. That is, PLS will not assign to or license any other user to use "two-point" for that purpose but will have the unrestricted right to use "two-point" for the above or any other purpose and to license users for any purpose other than the limited purpose use granted to ODC.

PLS has applied for a patent for the "two-point." That application for a patent is described in Exhibit "B". If before that patent is granted PLS does not desire or is not able to pursue that patent application, PLS will assign the application to ODC upon ODC paying to PLS all costs and expenses of preparing, filing, and processing that patent application. If notice of allowance of the patent is not obtained within one year of the first payment of \$25,000.00 by ODC, PLS will assign the patent application to ODC upon payment of the costs set forth above.

B. Consideration From Buyer. The purchase price for said equipment, materials, and intellectual property and the method of payment shall be as follows:

(1) For the equipment, materials, and intellectual property, set forth in A(1) and (2), ODC will pay PLS \$75,000.00 and two percent (2%) of the receipts from gross sales of all corneal diagnostic (tomography measuring) devices, or any derivative or similar product, sold by ODC for a period of seventeen (17) years from September 1, 1994.

(2) The purchase price will be paid as follows:

(a) ODC will make three non-refundable payments of \$25,000.00. The first payment will be made within thirty (30) days of ODC raising capital in the amount of \$375,000.00, but no later than December 31, 1994. The second payment of \$25,000.00 will be paid on or before March 31, 1995, and the third payment on or before September 30, 1995. If ODC does not raise capital of at least \$375,000.00 by December 31, 1994, this agreement will terminate and all property will be returned to PLS.

(b) Those three payments totalling \$75,000.00 will be a credit against royalties due to PLS whether from sale of the equipment, materials, and intellectual property or the "two-point." When the royalties (4% of gross sales receipts, 2% for equipment, materials, and intellectual property, and 2% for use of the "two-point") exceed a total of \$75,000.00 (the three payments set forth above), ODC will thereafter pay quarterly the two percent (2%) royalty set forth above in Paragraph (1) and the two percent (2%) for the use of the "two-point." Those quarterly payments will be due on March 31, June 30, September 30, and December 31.

(3) For the use of the "two-point" as set forth above, ODC will pay PLS a royalty of two percent (2%) of the receipts from gross sales for seventeen (17) years in the manner set forth above in B(1) and (2)(b). If notice of allowance of the patent is not obtained within one year of the first \$25,000.00 payment, set forth above in B(2)(a), then the patent application will be assigned to ODC upon payment of the costs and expenses set forth in A(3) above, and this two percent (2%) royalty will terminate. Provided, however, that if the "two-point" patent is denied, this two percent (2%) royalty will terminate, and payments previously made will be

credited against the royalties for the equipment, materials, and intellectual property.

(4) ODC grants PLS a security interest in all property which is the subject of this agreement. PLS will file a UCC-1 form and other documents necessary to perfect its security interest.

(5) If any payment is not made within thirty (30) days of the date when it is due, ODC will be in default, and PLS may retake all property which is the subject of this agreement and exercise any other remedies provided by law.

(6) PLS is entitled to inspect and copy ODC business records at reasonable times and places to determine the total amount of accrued gross sales and receipts.

C. Rental of Premises.

(1) PLS will rent on a month-to-month basis the offices formerly occupied by Fritz Knopp and Jerzy Orkiszewski, and the room where tomography development was carried out. The rent will be \$1,300.00 per month which includes utilities, but does not include telephone, services, or supplies.

(2) Rent will commence September 1, 1994, and be payable on the first day of each month thereafter. Rent paid will be credited on the first \$25,000.00 payment set forth in Paragraph B(2) above. After the first \$25,000.00 payment, there will be no credit for subsequent rental payments.

(3) Either party may terminate this part of the agreement (C. Rental of Premises) by giving thirty (30) days written notice to the other party. Termination of this part (C. Rental of Premises) of this agreement will not affect the remainder of this agreement which will continue in full force and effect.

D. Sale As Is. ODC has made its own investigation concerning the property transferred, and PLS makes no representation or warranties. This sale is without recourse.

E. No Assignment. For the term of this agreement, ODC will not assign or sell any of the property or rights conveyed by this agreement without the prior written consent of PLS.

F. No Assumption of Liabilities. This sale of assets is not an assumption by either party of any debts, obligations, or liabilities incurred by the other party either now or in the future. Each party will inform third parties with whom it contracts or does business that PLS and ODC are separate corporations and that they are not subsidiaries or affiliated corporations, and that neither party is responsible for the debts of the other party.

G. Execute All Documents. Each party to this agreement agrees to execute and deliver all documents and perform all further acts that may be reasonably necessary to carry out the provisions of this agreement.

H. Agreement Binding on Successors. This agreement shall be binding on, and shall inure to the benefit of, the parties to it and their respective heirs, legal representatives, successors, and assigns.

I. No Waiver. The provisions of this agreement may be waived, altered, amended, or repealed, in whole or in part, only by the written consent of both parties to this agreement.

J. Time Of The Essence. Time is of the essence of this agreement.

K. Attorney's Fees. If any legal action or any arbitration

or other proceeding is brought for the enforcement of this agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees and costs incurred in that action or proceeding, in addition to any other relief to which they may be entitled.

L. **Enforcement.** This agreement is to be governed, interpreted, and enforced under the laws of the State of California.

DATED: _____

PHOENIX LASER SYSTEMS, INC.

By: RL MRL

DATED: 8-17-94

OCULAR DIAGNOSTICS CORPORATION

By: Carl F. Knopp

ODC understands that JOHN DUTTON, the attorney who drafted the above agreement, is the attorney for PLS and does not represent ODC. ODC has been advised that if they desire legal counsel concerning this agreement, they should consult independent counsel.

DATED: 8-17-94

OCULAR DIAGNOSTICS CORPORATION

By: Carl F. Knopp
Carl F. Knopp

LIST OF PROPERTY INCLUDED IN PURCHASE AGREEMENT BETWEEN ODC AND PLS

1. Sanyo camera (PLS stock item)
2. Zoom lens
3. Tripod
4. Burle monitor
5. Monochrome monitor, PLS 00280
6. Computer, HiTech USA 486, PLS 00467
7. Monitor, PLS 00279
8. Keyboard
9. Power supply, PLS 00348
10. Sony monitor, PLS 00284
11. Two Spindler and Hoyer a.c. lamp power supplies
12. Variable transformer
13. Small optical table and base, 00451
14. Two swivel chairs
15. Six headrests
16. Stepper motor (PLS stock item)
17. Stepper motor driver (PLS stock item)
18. Breadboard of the tomography device

Two Point Alignment Patent

Title: Method for Establishing a Unique Machine Independent Reference Frame for the Eye

Authors: Carl F. Knopp

Paul R. Yoder

Oyr file reference: 332P

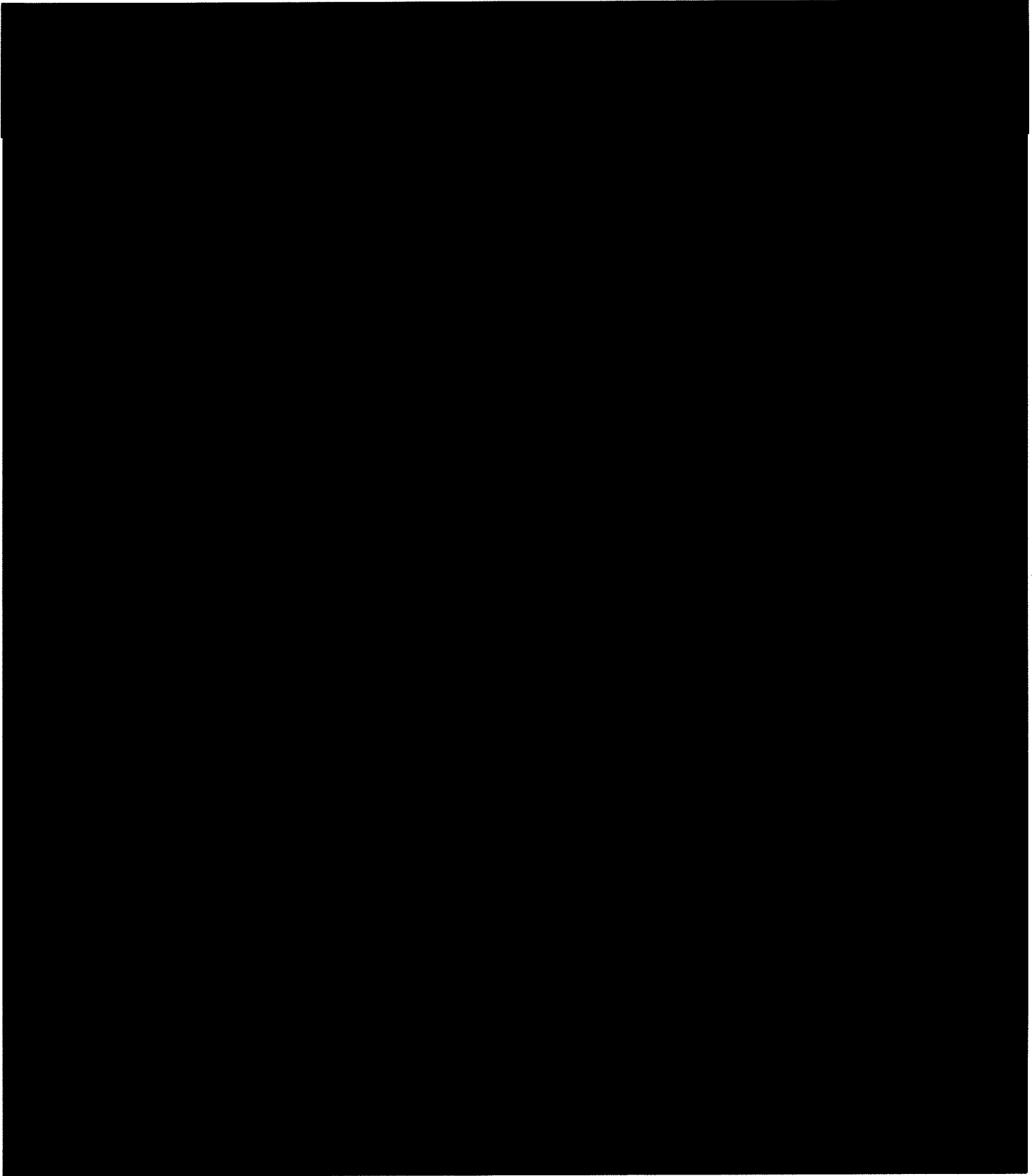
Serial No.: 08/091, 670

Filed (U.S.): July 14, 1993

EXHIBIT F

Carl F. Knopp

August 30, 1993





Invention Disclosure

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